

SERVICE DATE - AUGUST 21, 2001

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
— CONTROL AND OPERATING LEASES/AGREEMENTS —
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 195

Decided: August 20, 2001

Environmental Condition No. 11 of Appendix Q of Decision No. 89 (Decision No. 89, slip op. at 401-03) requires Applicants (including Consolidated Rail Corporation (CR), which administers the CSX/NS Shared Assets Areas), with the concurrence of the responsible local governments, to mitigate train wayside noise (locomotive engine and wheel/rail noise) at noise-sensitive receptor locations on certain rail line segments.¹ Environmental Condition No. 11 further provides that: “Applicants shall certify compliance with this condition within 2 years of the effective date of the Board’s final decision. This condition shall not apply to those communities that have executed Negotiated Agreements with Applicants that satisfy the communities’ environmental concerns.” Environmental Condition No. 11 requires compliance with this provision within 2 years of the effective date of Decision No. 89, or by August 22, 2000. At the request of CSX and CR, the Board extended the compliance date until August 22, 2001. See Decision No. 166, served on August 22, 2000.

By letter received at the Board on August 3, 2001, CSX, on behalf of CSX and CR, has requested a 6-month extension of the deadline provided for in Environmental Condition No. 11, until February 22, 2002. CSX states that it has worked diligently during the past 3 years to implement Environmental Condition No. 11, and has submitted to the Board 31 Negotiated Agreements that have been added to Environmental Condition No. 51 of Appendix Q of Decision No. 89.

CSX further advises that it has entered into Negotiated Agreements covering all of the eligible receptors identified in Environmental Condition No. 11 that are located in Indiana and

¹ In Decision No. 89, served July 23, 1998, we approved, subject to certain conditions, including environmental mitigation conditions, the acquisition of control of Conrail Inc., and CR, and the division of their assets by CSX Corporation and CSX Transportation, Inc. (collectively CSX), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, NS). CSX, NS, and CR are referred to collectively as Applicants for purposes of this decision.

Ohio, and that it has entered into agreements with nine responsible governments in Pennsylvania.²

CSX also advises that CR has worked diligently to comply with Environmental Condition No. 11 with respect to the eligible receptors in the Detroit Shared Assets Area, that CR has entered into Negotiated Agreements with two responsible local governments, and that these Negotiated Agreements have been submitted to the Board and have been added to Environmental Condition No. 51.³

CSX states that CSX and CR are continuing to have discussions with the owners of the remaining structures, and, if an agreement is not reached with particular property owners in the near future, CSX and CR will promptly evaluate feasible alternatives for implementing Environmental Condition No. 11 with respect to the structures. Accordingly, CSX states that a 6-month extension to February 22, 2002, would allow CSX and CR to complete negotiations with the owners of the eligible structures or to implement Environmental Condition No. 11 through alternative means if a negotiated agreement is not reached.

The request for a 6-month extension to February 22, 2002, is reasonable and will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The compliance deadline for CSX and CR in Environmental Condition No. 11 of Appendix Q of Decision No. 89 is extended 6 months until February 22, 2002.

² CSX states that Elizabeth and Rostraver Townships, PA, requested CSX to contact individual property owners, and that CSX has contacted them and has entered into agreements with all but 6 property owners. CSX notes that there are 28 structures eligible for noise mitigation in these townships, and that it has satisfied Environmental Condition No. 11 with respect to almost 99% of the structures eligible for noise mitigation under this condition.

³ CSX advises that Allen Park, Ash Township, and Lincoln Park, MI, requested CR to contact individual property owners, and that CR has contacted them and has entered into an agreement with one property owner.

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary